

receipt of the request, unless a longer period of time is requested by the party. An oral presentation is informal and a transcript usually is not made. The party may supplement the oral presentation with written information and arguments.

(iv) May identify to the Suspension and Debarment Official material facts in dispute and the bases. For an action other than one based on a conviction of civil judgment, a party may request review and a written finding by a fact-finding official.

(3) Following a review of the record and, if needed, a presentation by the contractor in opposition to the proposed action, the Suspension and Debarment Official will determine whether there is a genuine dispute of material fact. If so, the Suspension and Debarment Official will initiate the fact-finding process. The fact-finding official will:

(i) Establish a date for a fact-finding proceeding, normally to be held within 45 days of the determination of who will function as the fact-finding official.

(ii) Grant extensions for good cause.

(iii) Provide notice of the scheduled hearing.

(iv) Provide the parties with a schedule for exchange of documents and witness lists.

(v) Develop an official transcript of the fact-finding proceeding.

(vi) Provide the Government's representative and the contractor with an opportunity to present evidence relevant to the facts at issue. The contractor may appear in person or through a representative.

(vii) Conduct hearings under rules consistent with FAR 9.406-3 pertaining to fact finding. Neither the Federal Rules of Evidence nor the Federal Rules of Civil Procedure govern fact finding. Hearsay evidence may be presented and will be given appropriate weight by the fact-finding official.

(viii) Provide for witness testimony. Witnesses may testify in person. Witnesses are subject to cross examination.

(ix) Prepare written findings of fact based on a preponderance of the evidence and submit them to both the Suspension and Debarment Official and

the contractor within 20 calendar days following the conclusion of the fact-finding proceeding.

[64 FR 37207, July 9, 1999, as amended at 74 FR 12733, Mar. 25, 2009]

#### **509.407 Suspension.**

##### **509.407-1 General.**

The Suspension and Debarment Official is the designee under FAR 9.407-1(d).

[64 FR 37207, July 9, 1999, as amended at 74 FR 12733, Mar. 25, 2009]

##### **509.407-3 Procedures.**

(a) *General.* The procedures in 509.406-3 apply to suspension actions except as noted in paragraph (b) of this section.

(b) *Fact-finding.* (1) Fact-finding will not be conducted in an action:

(i) Based on an indictment.

(ii) When the Suspension and Debarment Official finds no genuine dispute of material facts.

(2) If the action is not based on an indictment, the Suspension and Debarment Official must coordinate with the Department of Justice or state prosecutorial authority through OIG. Based on the advice received, the Suspension and Debarment Official will determine if fact-finding would impair substantial interests of the Federal or state Government. In an action not based on an indictment, a suspended party may:

(i) Identify to the Suspension and Debarment Official material facts in dispute and the bases.

(ii) Request review and a written finding by a fact-finding official to resolve genuine disputes of material fact. For procedures involving a genuine dispute of material fact, see 509.406-3(d)(3).

[64 FR 37207, July 9, 1999, as amended at 74 FR 12733, Mar. 25, 2009]

## **PART 511—DESCRIBING AGENCY NEEDS**

### **Subpart 511.2—Using and Maintaining Requirements Documents**

Sec.

511.204 Solicitation provisions and contract clauses.